

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRANDEN WILLIE ISELI,

Petitioner,

v.

THE PEOPLE OF THE STATE OF
CALIFORNIA, et al.,

Respondents.

No. 2:25-cv-00530-TLN-CSK

ORDER

Petitioner, a state prisoner proceeding pro se, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 13, 2025, the magistrate judge filed findings and recommendations herein which were served on Petitioner and which contained notice to Petitioner that any objections to the findings and recommendations were to be filed within fourteen days. Petitioner did not file objections to the findings and recommendations. Instead, Petitioner filed a request to transfer this case, along with an earlier-filed habeas case, *Iseli v. Lynch*, No. 2:24-cv-0837 WBS SCR (E.D. Cal.), to the Court of Appeals for the Ninth Circuit, to be construed as his request for authorization to file a successive petition. (ECF No. 7.)

The Court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo.

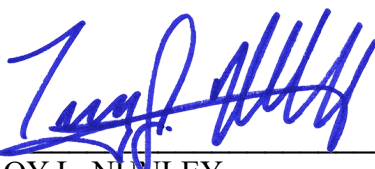
1 *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Having reviewed
2 the file, the Court finds the findings and recommendations to be supported by the record and by
3 the magistrate judge's analysis.

4 The district court has discretion either to transfer a successive petition to the Court of
5 Appeals or to dismiss the petition. *Jones v. Braxton*, 392 F.3d 683, 691 (4th Cir. 2004); *Robinson*
6 *v. Johnson*, 313 F.3d 128, 139-40 (3rd Cir. 2002). Because Petitioner has two petitions for writ of
7 habeas corpus pending in this district, this Court exercises its discretion and denies Petitioner's
8 request to transfer the instant petition to the Ninth Circuit for consideration as his request for
9 authorization to file a second or successive petition for writ of habeas corpus. The petition is
10 dismissed without prejudice to Petitioner seeking authorization from the Ninth Circuit.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. The findings and recommendations (ECF No. 6) are ADOPTED IN FULL;
- 13 2. Petitioner's request for transfer (ECF No. 7) is DENIED;
- 14 3. This action is DISMISSED without prejudice; and
- 15 4. The Court declines to issue the certificate of appealability referenced in 28 U.S.C.
16 § 2253.
- 17 5. The Clerk of Court is directed to close the case.

18 Date: April 17, 2025

19
20
21 
22 TROY L. NUNLEY
23 CHIEF UNITED STATES DISTRICT JUDGE
24
25
26
27
28